



July 31, 2000

Ms. Lamis A. Safa  
Assistant City Attorney  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251

OR2000-2881

Dear Ms. Safa:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 137525.

The City of Houston (the "city") received a request for "all pages from the Houston Police Department policy and procedures manual, or its equivalent, pertaining to officers' use of force. . . .[and] any training procedures related to use of force, as well as policy updates." You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 provides in pertinent part as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(b)(1). Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

This office has held that section 552.108 excepts portions of use of force procedures that state detailed guidelines on the use of force. Open Records Decision No. 531 (1989). However, portions of the procedures that relate to generally known common law rules, constitutional limitations, or Penal Code provisions are deemed public information. *Id.* Also excepted is information regarding undercover narcotics work, including all information which would reveal the identity of those engaged in such work, or would reveal when and where employees had traveled on sensitive assignments. Open Records Decision Nos. 211 (1978), 143 (1976) (applying the predecessor of section 552.108).

You have submitted to this office two types of information: "use of force" policies and procedures, submitted as "Exhibit 2," and several General Orders, submitted as "Exhibit 2(a)."<sup>1</sup> As the submitted materials consist of internal records rather than records that deal with the "detection, investigation, or prosecution of crime," none of the submitted materials is excepted under section 552.108(a)(1).

All of the materials in Exhibit 2 consist of detailed guidelines regarding the use of force. Accordingly, these materials constitute internal records of a law enforcement agency maintained for internal use regarding law enforcement. *See* Gov't Code § 552.108(b). You have provided this office with explanations as to how release of these materials would interfere with law enforcement. Based on the detailed nature of these guidelines as well as your representations, we find that release of Exhibit 2 would interfere with law enforcement. *See* Open Records Decision No. 531 (1989). Therefore, all of Exhibit 2 is excepted from required disclosure under section 552.108(b)(1).

However, we find that only portions of the materials in Exhibit 2(a) are excepted under section 552.108(b)(1). Some of the information contained in Exhibit 2(a) consists of detailed guidelines regarding the use of force, the release of which would interfere with law enforcement. Exhibit 2(a) also contains other types of internal rules which are far more general and administrative in nature. In regard to this administrative information, we find that you have not adequately shown that its release would interfere with law enforcement. Accordingly, while the city may withhold all of Exhibit 2 and the marked portions of Exhibit 2(a) pursuant to section 552.108(b)(1), it must release the remaining information in Exhibit 2(a).

---

<sup>1</sup>You question whether the information in Exhibit 2(a) is responsive to the request for information. We believe that a governmental body is in a better position than this office to identify information that reasonably relates to a request for information. *See* Open Records Decision No. 561 (1990). As you have submitted Exhibit 2(a) in regard to the request for information at issue here, and as the information is not obviously on its face unrelated to the request, we consider Exhibit 2(a) to be part of the responsive information at issue.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.


This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



E. Joanna Fitzgerald  
Assistant Attorney General  
Open Records Division

EJF\ljp

Ref: ID# 137525

Encl: Submitted documents

cc: Mr. Mark Nollinger  
CBS News  
2674 Locksley Place  
Los Angeles, California 90039  
(w/o enclosures)